IN THE

Supreme Court of The United States

OCTOBER TERM 1972

No. 72-441

DR. SID E. WILLIAMS, ET AL.,
Petitioners,

vs.

DR. WALTER C. BORNEMEIER, ET AL.,
Respondents.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

MEMORANDUM OF RESPONDENTS, AMERICAN MEDICAL ASSOCIATION AND ITS NAMED OFFICERS AND OHIO STATE MEDICAL ASSOCIATION AND ITS NAMED OFFICERS, OPPOSING CERTIORARI

The petitioners in this case are chiropractors whose essential claim, as noted by the court below (the United States Court of Appeals for the Sixth Circuit), is an attack upon the constitutionality of the Ohio Medical Practice Act, Ohio Revised Code Chapter 4731. A subsidiary claim of petitioners is that respondents American Medical Association and Ohio State Medical Association have acted in conspiracy with respondent Ohio State Medical Board to violate petitioners' rights under federal civil rights and antitrust statutes.

The court below affirmed the judgment of the United States District Court for the Southern District of Ohio

declining to convene a three-judge court and dismissing the case for failure to state a claim upon which relief can be granted. The court below noted in its opinion that the District Court "assessed the substantiality of the constitutional issues presented . . . [and] found [them] either foreclosed by prior decisions of the Supreme Court or patently without merit."

Moreover, this Court has had before it on three occasions within the past twelve (12) months petitions for certiorari filed on behalf of two of the petitioners in the case at bar, Frank J. Ream and Carson S. O'Dell, in which the same constitutional attacks upon the Ohio Medical Practice Act were made. *Ream v. Ohio,* No. 70-5259; *O'Dell v. Ohio State Medical Board,* No. 71-5682; *Ream v. Ohio,* No. 71-1087. Counsel for the petitioners in the case at bar also represented Mr. Ream and Mr. O'Dell in their cases before this Court. In each of these cases the petition for certiorari was denied. *Ream v. Ohio,* cert. denied, ____ U.S. ____, 30 L. Ed. 2d 76 (October 12, 1971); *O'Dell v. Ohio Medical Board,* cert. denied, ____ U.S. ____, 31 L. Ed. 2d 798 (April 17, 1972); *Ream v. Ohio,* cert. denied, ____ U.S. ____, 32 L. Ed. 2d 116 (May 15, 1972).

With respect to the subsidiary questions raised by petitioners concerning the federal civil rights and anti-trust statutes, these same questions were also raised in one or more of the three cases noted above in which certiorari was denied.

Lastly, the opinions of the United States District Court for the Southern District of Ohio and of the United States Court of Appeals for the Sixth Circuit, which are unreported but are contained in the Appendix to petitioners' brief at pages 61 and 71 respectively, amply set forth and discuss the applicable authorities

for denying the petition for a writ of certiorari.

THEREFORE, the petition for certiorari should be denied.

Respectfully submitted,
EARL F. MORRIS,
JAMES E. POHLMAN,
37 West Broad Street,
Columbus, Ohio 43215,
Counsel for Respondents

October 12, 1972